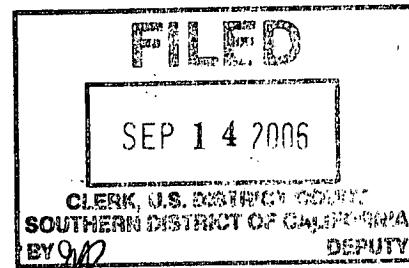


1 CAROL C. LAM
2 United States Attorney
3 STACEY H. SULLIVAN
4 Assistant United States Attorney
5 California State Bar No. 171605
6 United States Attorney's Office
7 Federal Office Building
8 880 Front Street, Room 6293
9 San Diego, California 92101
10 Telephone: (619) 557-7087

11 Attorneys for Plaintiff
12 UNITED STATES OF AMERICA



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15 UNITED STATES DISTRICT COURT
16 SOUTHERN DISTRICT OF CALIFORNIA

17 UNITED STATES OF AMERICA,) Magistrate Case No. 06MG1619
18 Plaintiff,)
19 v:)
20 THOMAS VINCENT DIAZ,)
21 Defendant.)
22 _____) (Pre-Indictment Fast-Track Program)

06CR2019-H
STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON

23 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES
24 OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and
25 Stacey H. Sullivan, Assistant United States Attorney, and defendant THOMAS VINCENT DIAZ,
26 by and through and with the advice and consent of defense counsel, Andrew Lah, Esq., Federal
Defenders of San Diego, Inc., that:

27 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
28 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
§ 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **October 2, 2006**.

6 4. The material witnesses, Rigoberto Trujillo-Trujillo, Pedro Ramirez-Rocha and
7 Jose Ismael Aguilar-Jacobo, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;
9 b. Entered or attempted to enter the United States illegally on or about
10 August 29, 2006;

11 c. Were found in a vehicle driven by defendant at the San Ysidro, California Port
12 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that they were
13 aliens with no lawful right to enter or remain in the United States;

14 d. Were having others pay on their behalf unknown amounts-\$3,000 to others
15 to be brought into the United States illegally and/or transported illegally to their destination therein;
16 and,

17 e. May be released and remanded immediately to the Department of Homeland
18 Security for return to their country of origin.

19 5. After the material witnesses are ordered released by the Court pursuant to this
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

25 b. The United States may elicit hearsay testimony from arresting agents
26 regarding any statements made by the material witness(es) provided in discovery, and such testimony
27 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in

United States v. Thomas Vincent Diaz

1 of (an) unavailable witness(es); and,

2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
3 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
4 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
5 waives the right to confront and cross-examine the material witness(es) in this case.

6 6. By signing this stipulation and joint motion, defendant certifies that defendant has
7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
8 further that defendant has discussed the terms of this stipulation and joint motion with defense
9 counsel and fully understands its meaning and effect.

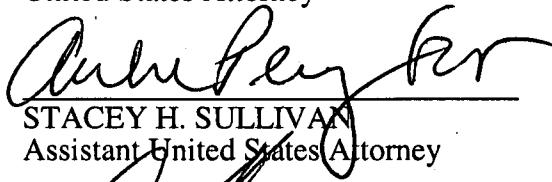
10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
11 immediate release and remand of the above-named material witness(es) to the Department of
12 Homeland Security for return to their country of origin.

13 It is STIPULATED AND AGREED this date.

14 Respectfully submitted,

15 CAROL C. LAM
16 United States Attorney

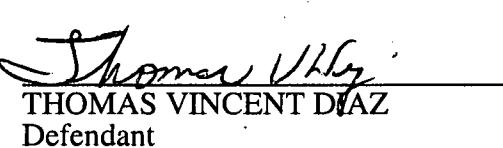
17 Dated: 9/9/06


STACEY H. SULLIVAN
Assistant United States Attorney

18 Dated: 9/8/06


ANDREW LAH
Defense Counsel for THOMAS VINCENT DIAZ

19 Dated: Sept 8, 2006


THOMAS VINCENT DIAZ
Defendant

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28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Thomas Vincent Diaz

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O R D E R

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Upon joint application and motion of the parties, and for good cause shown,

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THE STIPULATION is admitted into evidence, and,

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IT IS ORDERED that the above-named material witness(es) be released and remanded

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forthwith to the Department of Homeland Security for return to their country of origin.

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SO ORDERED.

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Dated: 9-14-06

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United States Magistrate Judge

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Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in

United States v. Thomas Vincent Diaz

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
Plaintiff)
vs.)
Thomas Vincent Diaz)
Defendant(s))
CRIMINAL NO. 06 CR 2019-H
ORDER
RELEASING MATERIAL WITNESS
Booking No.

On order of the United States District/Magistrate Judge, *Stormes*.

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed Order of Court).

Jose Ismael Aguilar-Jacobo

DATED: 9-14-06

NITA L. STORMES
UNITED STATES DISTRICT/MAGISTRATE JUDGE

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OR

W. SAMUEL HAMRICK, JR. Clerk

by S. Perraud
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

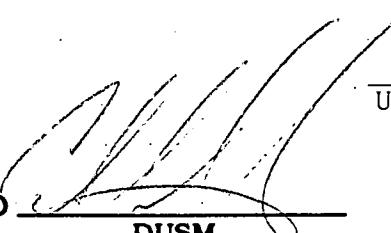
UNITED STATES OF AMERICA,)
Plaintiff) CRIMINAL NO. 06CR2019-H
vs.) ORDER
Thomas Vincent Diaz)
Defendant(s))
RELEASING MATERIAL WITNESS
Booking No. _____

On order of the United States District/Magistrate Judge, Stormes.

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed / Order of Court).

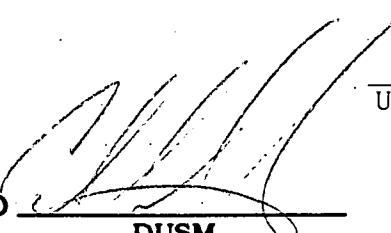
Pedro Ramirez-Rocha

DATED: 9-14-06


NITA L. STORMES

UNITED STATES DISTRICT/MAGISTRATE JUDGE

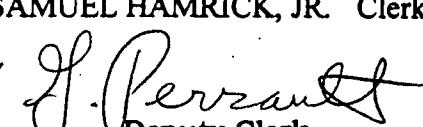
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OR

W. SAMUEL HAMRICK, JR. Clerk

by


J. Perez
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)

Plaintiff)

) vs.)

Thomas Vincent Diaz)

Defendant(s))

CRIMINAL NO. 06CR 2019-H

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District/Magistrate Judge, Stormes,

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed / Order of Court).

Rigoberto Trujillo-Trujillo

DATED: 9-14-06


NITA L. STORMES

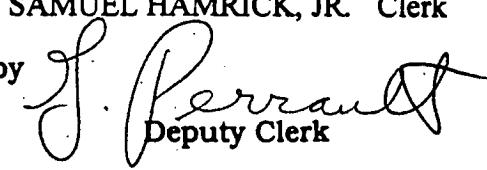
UNITED STATES DISTRICT/MAGISTRATE JUDGE

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OR

W. SAMUEL HAMRICK, JR. Clerk

by 
S. Perrault
Deputy Clerk